

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JAMES F., by and through his next §
friends, CHRISTINE F. and MICHAEL F., §
§
Plaintiff, §
§
v. § CIVIL ACTION NO. 4:23-cv-02063
§
CLEAR CREEK INDEPENDENT §
SCHOOL DISTRICT, §
§
Defendant. §

**DEFENDANT'S RESPONSE TO PLAINTIFF'S MOTION FOR LEAVE TO FILE
MOTION FOR ADMISSION OF ADDITIONAL EVIDENCE**

Defendant, Clear Creek Independent School District (“District”) hereby files its Response to Plaintiff’s Motion for Leave to File Motion for Admission of Additional Evidence (“Motion for Leave”), *see* Doc. 13, and would respectfully show the Court as follows:

- 1) The Court’s Minute Entry on October 11, 2023, set a deadline for Plaintiff to file any motion for additional evidence on December 8, 2023.
- 2) The deadline to file such a motion was extended to December 18, 2023, when the Court granted the Plaintiff’s Motion for Extension of the Deadline to File Motion for Additional Evidence on December 1, 2023. That order extended the Defendant’s deadline to respond to any such motion to January 10, 2023. *See* Doc. No. 12.
- 3) On December 18 and 19, 2023, counsel for the Defendant reviewed the filings in this case and determined that no motion for additional evidence had been filed by the Plaintiff.
- 4) On December 20, 2023, in a virtual meeting of the Admission Review and Dismissal Committee (“ARD Committee”) for Plaintiff James F., a statement was made about the filing of a

document, which was the first indication to counsel for the Defendant that a motion to add additional evidence may have been filed in this case.

5) Motion for Leave in Paragraph 8 accurately describes the email communication from Defendant's counsel regarding the failure to file the motion for additional evidence.

6) On December 26, 2023, counsel for Defendant further discussed the attempt to file the motion for additional evidence on December 18, 2023, with counsel for the Plaintiff, Mr. Whitburn. Based on a long history of working collaboratively with Mr. Whitburn and his firm as opposing counsel on numerous cases, counsel for the Defendant is satisfied that Mr. Whitburn made a good faith effort to file the motion to add additional evidence on December 18, 2023.

7) Therefore, the District does not oppose Plaintiff's Motion for Leave to File Motion for Admission of Additional Evidence.

8) If the Court grants Plaintiff's Motion for Leave to File Motion for Admission of Additional Evidence, based on the content of the motion to file additional evidence and the documents that are attached to it, and the failure to have access to these documents until December 21, 2023, the District has, on this day, filed an Agreed Motion to Extend Deadline to Respond to Plaintiff's Motion for Admission of Additional Evidence to January 22, 2024.

Respectfully submitted,

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ATTORNEYS FOR CLEAR CREEK ISD

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing pleading has been served on all counsel of record through the Court's electronic filing system, on December 28, 2023:

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/s/ Janet L. Horton

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